

REMARKS**Summary of the Office Action**

Claim 10 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter.

Claims 1, 2, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinstock (U.S. Patent No. 6,166,314) (hereinafter "Weinstock") in view of Suzuki et al. (U.S. Patent No. 5,347,083) (hereinafter "Suzuki").

Claims 6-8 and 11-13, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form.

Summary of the Response to the Office Action

Applicant has also amended claims 1, 9 and 10 to differently describe embodiments of the disclosure of the instant application. Also, claims 6 and 11 have been amended to be rewritten in independent form in light of the Office Action's indication of allowable subject matter. Accordingly, claims 1, 2, and 6-13 are currently pending for consideration.

Rejection under 35 U.S.C. § 101

Claim 10 stands rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. Claim 10 has been newly-amended in accordance with the Examiner's helpful comments as provided at page 2 of the Office Action. Accordingly, Applicant respectfully submits that claim 10 now fully complies with 35 U.S.C. § 101. Withdrawal of the rejection under 35 U.S.C. § 101 is respectfully requested.

Rejection under 35 U.S.C. § 103(a)

Claims 1, 2, 9, and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Weinstock in view of Suzuki.

The Examiner is thanked for the indication that claims 6-8 and 11-13, while objected to as being dependent upon a rejected base claim, would be allowable if rewritten in independent form. Accordingly, claims 6 and 11 have been amended to be rewritten in independent form in light of the Office Action's indication of allowable subject matter by incorporating the features of the previous form of claim 1 into each of these claims. Accordingly, newly-amended independent claims 6 and 11 are in prima-facie condition for allowance. Dependent claims 7-8 and 12-13 are allowable at least because of their dependence from claim 6 or 11, and the reasons set forth above. Accordingly, withdrawal of the objection to claims 6-8 and 11-13 is respectfully requested.

Applicant has also amended claim 1 to differently describe embodiments of the disclosure of the instant application's specification. To the extent that these rejections might be deemed to apply to the claims as newly-amended, they are respectfully traversed for at least the following reasons.

Applicant respectfully submits that Weinstock discloses a machine 10 comprising a score processor 12 for inputting a music score, an input processor 14 for receiving performance input and comparing the received performance input with the input music score, and an output processor 18 for outputting a stream of MIDI codes synchronized to the received performance input in accordance with the compared result in the input processor 14.

However, Applicant respectfully submits that the machine of Weinstock is a music tracking machine for outputting the MIDI codes stream for an automatic performance of a synchronized accompaniment in accordance with a music score previously selected by a performer. The received performance input is not compared with music scores for a plurality of music pieces. In the comparison of Weinstock, a performance location in a music score is determined in real time. In Weinstock, a desired music piece can not be searched.

Further, Applicant respectfully submits that the machine of Weinstock does not calculate a correlation coefficient between the received performance input and the input music score.

Applicant respectfully submits that Suzuki discloses an automatic performance device including code matching process for sequentially comparing chord data of an input music pieces and chord data of 20 music pieces stored in a chord performance memory 5, and for then setting “1” into a coincidence flag MCH(I) that corresponds to the stored music piece whose chord progression is determined as not matching or coinciding with that of the input music piece. The coincidence flag MCH(I) is set into “0” when the chord data of the input music piece coincides with chord data of one of the 20 music pieces.

However, Applicant respectfully submits that the device of Suzuki does not calculate a correlation coefficient between the chord data of the input music piece and the chord data of the 20 music pieces stored in the chord performance memory 5. The device disclosed in Suzuki only detects matching or mismatching of the chord data of the input music piece and the chord data of the 20 music pieces.

Therefore, Applicant respectfully submits that Weinstock and Suzuki do not teach, or even suggest, a configuration corresponding to the “calculator” and “output device” specifically

described in the combination of features of newly-amended independent claim 1 of the present application.

Similar features have also been added to newly-amended independent claims 9 and 10, as discussed above with regard to newly-amended independent claim 1. Accordingly, similar arguments as discussed above with regard to newly-amended independent claim 1 also apply to newly-amended independent claims 9 and 10

Accordingly, Applicants respectfully assert that the rejections under 35 U.S.C. § 103(a) should be withdrawn because neither Weinstock nor Suzuki, whether taken singly or combined, teach or suggest each feature of independent claim 1, 9 or 10, as amended. MPEP § 2143.03 instructs that “[t]o establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).” Furthermore, Applicants respectfully assert that dependent claim 2 is allowable at least because of its dependence from claim 1 and the reasons set forth above.

CONCLUSION

In view of the foregoing, Applicant submits that the pending claims are in condition for allowance, and respectfully requests withdrawal of all outstanding rejections, and reconsideration and timely allowance of the pending claims. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicant’s undersigned representative to expedite prosecution. A favorable action is awaited.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. § 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

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